

LOCAL LAW NO. 3, YEAR 2009

A Local Law establishing the Big Flats Sewer Use Law for Big Flats Sewer District No. 1:

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ARTICLE I SHORT TITLE AND STATEMENT OF PURPOSE

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Section 101 Short Title

This law shall be known as the Big Flats Sewer Use Law.

Section 102 General Purpose

The general purpose of this law is to provide for efficient, economic, environmentally safe and legal operation of the Big Flats Sewer District No.1, ("Sewer District") and the sanitary, storm, and/or combined sewers of the Sewer District and tributaries thereto. In addition, this law sets forth requirements for users or contributors to the public owned treatment works of Chemung County ("POTW") in which the Sewer District effluent ultimately flows, and enables the Town to comply with all applicable State and Federal laws, including the Federal Water Pollution Control Act of 1972 and its subsequent Revisions, Federal regulations promulgated thereunder, and other State, Federal and local statutes, regulations, administrative orders and ordinances.

Section 103 Specific Purposes

The specific purposes of this law are the following:

- (1) To prevent the introduction of substances into the POTW that will:
 - (a) interfere with or adversely impact the POTW in any way,
 - (b) pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation of the POTW's SPDES permit or otherwise be incompatible with the POTW,
 - (c) contaminate or adversely impact POTW sludge management, increase the cost or otherwise hamper the disposal of POTW sludge and/or residuals.
 - (d) endanger the health or welfare of persons,
 - (e) cause air pollution, or groundwater pollution, directly or indirectly or otherwise present an endangerment to the environment.
 - (f) cause, directly or indirectly, any public nuisance condition.
- (2) To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow.
- (3) To assure that new sewers and connections are properly constructed.
- (4) To provide for equitable distribution to all users of the Sewer District all capital and operational costs, including but not limited to, costs associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.
- (5) To require compliance with all applicable State, Federal and Local laws, regulations, administrative orders and ordinances.
- (6) To improve opportunities to recycle and reclaim POTW sludge and/or residuals.

Section 104 Applicability

This law, and any rules and regulations promulgated hereunder, applies to all users of the Sewer District without exception.

Section 105 Power

The Administrative Board are hereby granted those powers as more fully provided under Article 12 and Article 12-C of the Town Law, together with such other Federal, State and Town Laws applicable to Sewer District and to promulgate thereunder such rules and regulations as provided in Article 12 and Article 12-C of the Town Law.

The Administrative Board are hereby further granted the authority that in the event that the Sewer District have capacity in excess of its own needs, the Administrative Board may contract with

municipalities, districts, public or private corporations or individuals within or without the Sewer District for the collection, conveyance, treatment and/or disposal of sewage including scavenger wastes.

ARTICLE II RULES AND REGULATIONS

Section 201 Authority
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Section 201 Authority

Pursuant to Article 12 and Article 12-C of the Town Law of the State of New York, the power to adopt, amend and repeal rules and regulations for the operation of the Sewer District are vested in the Town Board.

Section 202 Procedures for Adopting Rules and Regulations

The Town Board may by resolution, adopt, amend and repeal, from time to time, rules and regulations to provide for the efficient, economic, environmentally safe and legal operation of the Sewer District.

Section 203 Authority to Enforce Rules and Regulations

The Town Board shall comprise the Administrative Board of the Sewer District. The Administrative Board of the Sewer District and their designees, including the Superintendent, are authorized to implement and enforce this law and any rules and regulations adopted by the Town Board and to otherwise carry out the policies, operations, administration, maintenance, design, construction and supervision of all programs within the Sewer District in accordance with Article 12 and Article 12-C of the Town Law of the State of New York.

Section 204 Definitions

Unless otherwise stated in the section where the term is used in the Big Flats Sewer Use Law, the meaning of the terms used herein shall be as stated and defined in the Rules and Regulations referred to in Section 202 above, as may be amended from time to time. If not so defined, such terms shall be defined as provided in Title 1 of the Town Code. If not so defined therein, such terms shall have the ordinary and customary meaning as used in the Town

ARTICLE III ADMINISTRATIVE PROCEDURES

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Section 301 Public Information

The Big Flats Sewer District shall:

(1) adopt within the rules a description of its organization, stating the general policy and method of operation and designate where applications, requests and submissions shall be made;

(2) make available to the public or other governmental agency for inspection and/or copying information and data on users obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections unless the user specifically requests in writing and is able to demonstrate to the satisfaction of the Superintendent that such information, if made public, would divulge information, processes or methods of production entitled to protection as trade secrets of the user or otherwise prohibited by law. Wastewater constituents and characteristics will not be recognized as confidential. Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed upon written request to governmental agencies for uses related to this Law, the State Pollutant Discharge Elimination Permit Program, Sludge Disposal System permit program and/or Pretreatment Program providing that the governmental agency making the request agrees to hold the information confidential in accordance with State or Federal Laws and Regulations. The Superintendent shall give written notice to the user of any disclosure of confidential information to another governmental agency.

Where a request is made to the Superintendent to treat information as confidential, the Superintendent shall treat it as such unless and until the Superintendent notifies the user, in writing, of the denial of the request. The decision of the Superintendent shall be effective ten days after the date of the notice. If review of the Superintendent's decision is commenced under the "Contested Cases" provisions of this Article before the expiration of the ten days, the Superintendent shall continue to treat the information as confidential unless the Administrative Board upholds the Superintendent's initial decision denying the request for confidentiality. If the review of the information for which confidential treatment is sought could present a conflict of interest for any member of the Administrative Board that member shall take no part in the Administrative Board's decision. Any materials considered in a confidentiality proceeding may not be disclosed by any Administrative Board member if the request for confidentiality is upheld by the Administrative Board. The decision of the Board shall be effective five days after service upon the user of the final decision;

(3) adopt rules stating the nature and requirements of procedures in applying for a permit, in requesting a hearing, and how to submit or oppose the adoption of any rule;

(4) make all rules, orders, statement of policy or interpretation used by the Sewer District in the discharge of their functions available for public inspection. No rule, order or decision is valid against any person or party until it has been made available for public inspection. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

Section 302 Declaratory Opinions By the Superintendent, Declaratory Rulings By the Administrative Board

(A) The Superintendent shall give a declaratory opinion when either of two conditions exist:

- (1) A petitioner's position is not consistent with the policy contained in the Big Flats Sewer Use Law or the Rules and Regulations adopted by the Administrative Board. This request must be acknowledged within ten (10) working days, or
- (2) The Superintendent formally notifies a party of an existing violation or violations of the Big Flats Sewer Use Law or the Rules and Regulations which, in the Superintendent's opinion, will make the party subject to enforcement and penalties as contained in Article IV of this Law.

(B) The Administrative Board shall be informed of all opinions of the Superintendent. Such opinions are not binding on the Administrative Board but shall be reviewed, with notice, upon a formal request of any party or the Administrative Board. After review, the Administrative Board will issue a declaratory ruling to be filed with the Clerk of the Town of Big Flats.

Section 303 Contested Cases; Notice; Hearings; Records

(A) In a contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The hearings shall be conducted by the Administrative Board or a hearing officer appointed by the Board.

(B) The notice shall include:

- (1) a statement of the time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of this Law and/or the Rules and Regulations involved; and
- (4) a short and plain statement of the matters asserted. If the Administrative Board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of issues involved. Thereafter upon application, a more definite and detailed statement shall be furnished.

(C) Upon the return day of such notice the person so notified shall file with the Administrative Board, a statement setting forth the position of the person so notified, an answer to the charges made, if any, and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses and other evidence shall be received in support or opposition to such statement.

(D) Opportunity shall be afforded all parties to respond and present evidence, sworn testimony and argument on all issues involved.

(E) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default prior to the hearing. Within 10 days prior to the hearing, parties may request a prehearing conference with the Administrative Board's representative for an informal disposition of any or all issues.

(F) The Administrative Board or hearing officer may issue subpoenas and administer oaths in connection with any hearing or investigation, and it shall be the duty of the Administrative Board or hearing officer to issue subpoenas at the request of and on behalf of any party.

(G) Oral proceedings or any part thereof shall be transcribed on request of any party.

(H) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(I) The record upon appeal from a determination of the Administrative Board in a contested case shall include:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings thereon;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the hearing officer; and
- (7) all staff memoranda or data submitted to the hearing officer or members of the Administrative Board in connection with their consideration of the case.

Section 304 Rules of Evidence; Official Notices

In contested cases:

(A) The rules of evidence need not be strictly applied; provided, however, that irrelevant, immaterial, or unduly repetitious evidence shall be excluded. However, the rules of privilege recognized by New York State Law must be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(B) documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

(C) a party may conduct cross examinations as required for a full and true disclosure of the facts; and

(D) notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Sewer District's special knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material noticed. The Sewer District's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

Section 305 Examination of Evidence by Administrative Board

When in a contested case a majority of the members of the Administrative Board who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the Sewer District, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the Administrative Board members who are to render the decision. The proposal for decision shall contain a statement of the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this action.

Section 306 Decision and Orders

A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with the rules of the Sewer District, a party submitted proposed findings of fact, the decision shall a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to attorneys of record.

Section 307 Ex Parte Consultations

Unless required for the disposition of an ex parte matter authorized by law, members or employees of the Sewer District assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or its representatives, except upon notice and opportunity for all parties to participate. A member of the Sewer District:

(A) may communicate with other members of the Sewer District; and

(B) may have the aid and advice of one or more personal assistants.

Section 308 Permits and Licenses

(A) Whenever a hearing is required in connection with a Permit or a license the provisions of this Law concerning contested cases shall apply.

(B) When a permittee or licensee has made timely and sufficient application for the renewal of a permit or license or a new Permit or new license with reference to any activity of a continuing nature, the existing Permit or license does not expire until the application has been finally determined by the Administrative Board, and, in case the application is denied or the terms of the new Permit or license are limited, until the last day for seeking review of the order of the Sewer District or a later date fixed by order of the Court of competent jurisdiction.

(C) No revocation, suspension, annulment, or withdrawal of any Permit or license is lawful unless, prior to the institution of Administrative Board proceedings, the Sewer District gave notice by registered mail to the permittee or licensee of facts or conduct which warrant the intended action, and the permittee was given an opportunity to show compliance with all lawful requirements for the retention of the Permit. If the Superintendent finds that public health, safety, or welfare requires emergency action, and incorporates a finding to that effect in the Superintendent's order, summary suspension of a Permit may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Section 309 Review of Contested Cases

(A) A party, who has exhausted all administrative remedies available within the Sewer District and who is aggrieved by a final decision in a contested case, is entitled to review.

(B) Review of a rate making determination shall be accomplished by petition to the Administrative Board pursuant to the Scale of Charges.

(C) Review of other decisions are instituted by filing a petition in New York Supreme Court located in and for the County of Chemung within 30 days after issuance of the final decision of the Administrative Board or, if a rehearing is requested and granted, within 30 days after the decision thereon.

(D) The filing of the petition does not itself stay enforcement of the Administrative Board's decision though a stay may be granted upon appropriate terms by the Administrative Board.

(E) The Administrative Board of the Sewer District shall transmit to the reviewing court the original (or certified) copy of the proceeding under review. The cost of the record upon appeal shall be paid by the appellant, and the ultimate cost thereof shall abide the final determination.

ARTICLE IV ENFORCEMENT AND PENALTIES

Section 401 Enforcement Response Plan

Section 402 Violations

Section 403 Notification of Violation

Section 404 Consent Orders

Section 405 Administrative or Compliance Orders

Section 406 Administrative Fines

Section 407 Cease and Desist Orders

Section 408 Termination of Permit

Section 409 Show Cause Hearing

Section 410 Failure of User to Petition the Superintendent

Section 411 Notice

Section 412 Right to Choose Multiple Remedies

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Section 414 Criminal Penalties

Section 415 Injunctive Relief

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Section 418 Contractor Listings

Section 401 Enforcement Response Plan

The Superintendent shall prepare a statement of policy on enforcement response, to be called the Enforcement Response Plan. The plan, in a step by step fashion, shall provide guidance on how the Superintendent may respond to violations. The Enforcement Response Plan shall outline the procedures to be followed to identify, document, and respond to violations of this Law or the Rules and Regulations promulgated hereunder. All violations of this Law or the Rules and Regulations promulgated hereunder shall be met with some type of enforcement response. The Administrative Board shall approve the Enforcement Response Plan.

Section 402 Violations

Any person who violates any of the provisions of the Big Flats Sewer Use Law or any Rule or Regulation promulgated pursuant thereto, or any term or condition of any license or permit issued pursuant thereto, or any final determination or any Notification of Violation, order or other final determination made pursuant thereto is in Violation and shall be liable as provided in this Article. The Superintendent shall respond to all violations pursuant to the Enforcement Response Plan promulgated in accordance with Section 401 where applicable.

Section 403 Notification of Violation

Whenever the Superintendent finds that any user or other person is committing or has committed a violation the Superintendent may serve upon such person a written Notification of Violation stating the nature of the violation. Within ten (10) calendar days of the date the Superintendent mails the notice, an explanation of the violation, and a plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent, by the user. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the Notification of Violation.

Section 404 Consent Orders

The Superintendent may enter into Consent Orders, upon prior approval of the Administrative Board, and receipt of written assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for any violation. A Consent Order shall include specific action to be taken by the user to correct the violation within a time period also specified by the Consent Order. Consent Orders shall have the same force and effect as an administrative order.

Section 405 Administrative or Compliance Orders

(A) When the Superintendent finds that any user or other person is committing or has committed a violation the Superintendent may issue an administrative order to the user responsible for the violation directing that, following a specified time period, sewer service shall be suspended or discontinued, severed and abated unless the violation is corrected and there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self monitoring, and management practices.

(B) The user may, within fifteen (15) calendar days of receipt of such order, petition the Superintendent to modify or suspend the order, stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any frivolous or nonconforming petitions,
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 409 of this Law and may as part of the show cause notice request the user to supply additional information.

Section 406 Administrative Fines

Notwithstanding any other section of this Law or the Rules and Regulations, when the Superintendent finds that any person is committing or has committed a violation, the Superintendent may assess a fine in an amount not to exceed one thousand dollars (\$1,000.00)

per day per violation. The user may, within fifteen (15) calendar days of notification of such fine, petition the Superintendent to modify or suspend the imposed fine, stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent may then:

- (1) Reject any frivolous or nonconforming petitions, or
- (2) Modify or suspend the fine, or
- (3) Order the petitioner to show cause in accordance with Section 409 and of this Law, may as part of the show cause notice, request the user to supply additional information.

Section 407 Cease and Desist Orders

(A) When the Superintendent finds that any person is committing or has committed a violation, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

(B) The user may, within fifteen (15) calendar days of the date the Superintendent mails notification of such order, petition the Superintendent to modify or suspend the order stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent may then:

- (1) Reject any frivolous or nonconforming petitions, or
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 409 of this Law, and may, as part of the show cause notice, request the user to supply additional information.

Section 408 Termination of Permit

(A) When the Superintendent finds that any user or other person is committing or has committed a violation, the Superintendent may issue an administrative order terminating the user's service and/or revoking the user's permit or license to discharge, if the violation is one of the following:

- (1) Violation of permit or license conditions; or
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge; or
- (3) Failure to report significant changes in operations or wastewater constituents and characteristics; or
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

(B) Non-compliant users will be notified, by registered mail, of the proposed termination of their service and/or license or permit. The user may, within fifteen (15) calendar days of the date the Superintendent mails such notification, petition the Superintendent to allow continued use of the Sewer District by the user. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail, stating with specificity the relief requested, the reasons therefore and all authority to be considered. The Superintendent may then:

- (1) Reject any frivolous or nonconforming petitions,
- (2) Order the petitioner to show cause in accordance with Section 409 of this Law, and may, as part of the show cause notice, request the user to supply additional information.

Section 409 Show Cause Hearing

(A) The Superintendent may order any user appealing any final enforcement action to show cause before the Administrative Board why the enforcement action initiated by the Superintendent should not be taken. A user shall be served a notice specifying the time and place

of a hearing to be held by the Administrative Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Administrative Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) calendar days before the hearing in accordance with Section 411 of this Article. Service shall be made upon the user or upon any principal or executive officer of a user or upon any partner of a user.

(B) The Administrative Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Sewer District to conduct the hearing. The hearing shall be conducted in accordance with the procedures specified in Article III of this Law.

(C) After the Administrative Board has reviewed the evidence and testimony, it may order the user to comply with the order or fine, initiated by the Superintendent, modify the same, or vacate the same.

Section 410 Failure of User to Petition the Superintendent

In the event the Superintendent issues any Notification of Violation or administrative order, terminates the user's service, permit or license, or assesses any fine as set forth in this Article, and the user fails, within the designated period of time set forth, to petition the Superintendent as provided in appropriate sections of this Article, the user shall be deemed in default and its rights to contest the action shall be deemed waived.

Section 411 Notice

The notices, order, or petitions which the user or Superintendent shall desire or be required to give pursuant to any sections of this Law or the Rules & Regulations promulgated pursuant hereto shall be in writing and shall be served personally or sent by registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the user pursuant to the sections of this Law or the Rules & Regulations promulgated pursuant hereto shall be mailed to the user where the user's effluent is discharged into transmission lines of the Sewer District. Any notice, petition, or other communication mailed to the Superintendent shall be addressed and mailed to the offices of the Sewer District.

Section 412 Right to Choose Multiple Remedies

The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Superintendent may utilize more than one administrative remedy established pursuant to this Article, and the Superintendent may hold one show cause hearing combining more than one enforcement action.

Section 413 Civil Actions for Penalties

(A) When the Superintendent finds that any user or other person is committing or has committed a violation, such user or other person shall be liable to the Sewer District for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each such violation. Each violation shall be a separate and distinct violation, and in the case of continuing violations, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the attorney for the Sewer District, or his or her designated attorney, at the request of the Superintendent, in the name of the Sewer District, in any court of competent jurisdiction. In addition to the above described penalty, the Sewer District may recover all damages incurred by the Sewer District from any users or other persons who are committing or have committed a violation, and may seek an order suspending, revoking or modifying the user's permit or license. In addition to the above described damages, the Sewer District may recover all reasonable attorney's fees incurred by the Sewer District in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages. The Sewer District may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(B) In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions taken by the user, the compliance history of the user, and any other relative factors as justice may require. Such civil penalty may be released or compromised by the Superintendent before the matter has been referred to the Sewer District attorney, and where such matter has been referred to the Sewer District attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Sewer District attorney, with the consent of the Superintendent.

(C) Nothing in this section shall preclude any cause of action or other civil remedy provided under Federal, State, County, or Town Law.

Section 414 Criminal Penalties

(A) Any user or other person who acts with criminal negligence or recklessly, knowingly or intentionally is committing or has committed a violation shall be guilty of a Class A Misdemeanor, and upon conviction shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) per day per violation, or imprisonment not to exceed one (1) year or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

(B) Any user or other person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law or the Rules & Regulations promulgated pursuant hereto, or a license or permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law or the Rules & Regulations promulgated pursuant thereto shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

(C) No prosecution, under this Section 414, shall be instituted until after final disposition of a show cause hearing, if any was instituted.

(D) Nothing in this section shall preclude any prosecution or other criminal remedy under Federal, State, County, or Town Law.

Section 415 Injunctive Relief

Whenever the Superintendent finds that any user or other person is committing or has committed a violation, the Superintendent may request the Sewer District' attorney or his or her designated attorney to petition any court of competent jurisdiction, in the name of the Sewer District, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities of the violator.

Section 416 Summary Abatement

(A) Notwithstanding any inconsistent provisions of this Law or the Rules & Regulations promulgated pursuant hereto, whenever the Superintendent finds, after investigation, that any user or other person is causing, engaging in, or maintaining a condition or activity which, in the judgment of the Superintendent, presents an imminent danger to the public health, safety, or welfare, or is likely to result in severe damage to the Sewer District or the POTW or which presents or may present a danger to the environment or threaten to interfere with the POTW's operation and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such person by notice, in writing wherever practicable, to discontinue, abate, or alleviate such condition or activity, and thereupon such

person shall immediately discontinue, abate, or alleviate such condition or activity. Where the giving of notice is impracticable, or in the event of a user's failure to immediately comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition.

(B) As promptly as possible after such action, not to exceed fifteen (15) calendar days, the Superintendent shall provide the user an opportunity to be heard by issuing a show cause order in accordance with Section 409 of this Law.

(C) If the user is not within the geographic boundaries of the Sewer District the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in any inter-municipal agreement if applicable.

(D) The Superintendent acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his or her duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.

Section 417 Public Notification

The Superintendent shall publish annually, in the largest daily newspaper of the Town, a list of users which, at anytime during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements.

Section 418 Contractor Listings

(A) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Sewer District.

(B) Existing contracts for the sale of goods or services to the Sewer District held by a user found to be in significant non-compliance, may be terminated at the discretion of the Administrative Board.

ARTICLE V CHARGES

Section 501 Sewer Rents

Section 502 Violation of Sewer Rents

Section 501 Sewer Rents

The Administrative Board may establish and amend from time to time, a wholesale and retail rate schedule know as "sewer rents", setting forth a schedule of charges for the collection, conveyance, treatment and disposal of sewage or wastewater from public corporations, improvement district, commercial, industrial and individual users, to determine on an equitable basis, including but not limited to, a system of classification which, for purposes of establishing of differential rates, charges or rentals, may allocate among areas within the Sewer District designated by the Administrative Board the cost of the establishment of the Sewer District, the purchasing of improvements therein and operation and maintenance of the Sewer District or any combination thereof or may impose sewer rents as provided by the General Municipal Law of the State of New York.

The Administrative Board shall also have the authority to make additional charges for waste discharges as follows:

1. abnormal sewage;
2. pretreatment program charges and costs;
3. charges for trucked and hauled wastes; capital recovery costs for the collection, pumping, treatment and disposal of industrial wastewater from those persons discharging such wastewater into the Sewer District;

4. a sewer connection fee; and
5. all other allowable charges as provided under State and Federal Law, in particular, but not limited to, Town Law Section 198.

Section 502 Violation of the Scale of Charges

The provisions of Article IV of this Local Law apply to any violation of the Sewer Rents and/or Rules and Regulations as provided hereunder. In addition, any and all unpaid charges, rents, fees or costs shall be assessed to the appropriate responsible party and included in such party's real property tax levy as provide under Town Law Section 198 (k).

ARTICLE VI EFFECTIVE DATE AND SEPARABILITY

Section 601 Repeal of Prior Legislation

Section 602 Separability

Section 603 Effective Date

Section 601 Repeal of Prior Legislation

All codes, laws or part of same in conflict herewith are repealed.

Section 602 Separability

Each provision of this law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this law which shall nonetheless remain in full force and effect.

Section 603 Effective Date

This law shall be effective upon filing with the Secretary of State of the State of New York as provided by law.